

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CORY COCA, )  
Plaintiff, ) 3:08-cv-00326-LRH-RAM  
vs. ) ORDER  
STATE OF NEVADA; KEVIN BRIGGS, )  
ESQ., NEVADA BAR NO. 5588, DEPUTY )  
DISTRICT ATTORNEY FOR WHITE PINE )  
COUNTY, )  
Defendants. )

16 Before the court is Plaintiff's Motion from Order of Dismissal/Motion for  
17 Reconsideration (#11<sup>1</sup>). Plaintiff filed a Motion for Leave to Proceed *in forma pauperis* (#1) on  
18 June 12, 2008, which was granted by Order (#5) on July 15, 2008. The Order (#5) instructed  
19 plaintiff that he would have twenty (20) days to furnish service of process forms (USM-285) to  
20 the U.S. Marshal for service on defendants and that twenty (20) days after receiving the forms  
21 back from the U.S. Marshal he would need to file a notice with the court identifying which  
22 defendants had and had not been served. The order (#5) also reminded plaintiff that pursuant to  
23 Rule 4(m) of the Federal Rules of Civil Procedure, service must be accomplished within 120  
24 days of the date of the order.

25 The summons were issued pursuant to Order (#5) on July 15, 2008. Plaintiff was mailed  
26 a Notice of Intention to Dismiss pursuant to Fed. R. Civ. P. 4(m) (#8) on November 17, 2008,  
27 that no proper proof of service had been filed as to all defendants and that unless there was proof

<sup>1</sup>Refers to court's docket number.

1 of service on the defendants filed with the court on or before November 26, 2008, the case would  
2 automatically be dismissed without prejudice. No documents were filed by the plaintiff and an  
3 Order of Dismissal Pursuant to Fed. R. Civ. P. 4(m) (#9) was entered on December 12, 2008, and  
4 the case was closed.

5 On December 31, 2008, Form USM-285 was filed for each defendant. The returns of  
6 service indicate the summons and complaints were served via U.S. mail and not by personal  
7 service on the defendants as required by Fed. R. Civ. P. 4(e)(2)(A-C) and (j)(2)(A-B).

8 GOOD CAUSE APPEARING, plaintiff's Motion for Reconsideration (#11) is DENIED.

9 DATED this 7th day of May, 2009.



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11 LARRY R. HICKS  
12 UNITED STATES DISTRICT JUDGE  
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